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HENRY M. ROBINSON

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BY
HENRY M. ROBINSON

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LECTURES ON THE MORALS
OF TRADE

This series will contain essays by representative scholars and men of affairs dealing with the various phases of the moral law in its bearing on business life under the new economic order, first delivered at the University of California on the Weinstock Foundation.

RELATIVITY IN BUSINESS MORALS

The only absolute concept in a correct code of business ethics or commercial morality is the Golden Rule. But inasmuch as the Golden Rule has never been generally utilized as the basis of business dealings (except for publicity purposes) we must look upon the morals of business as a relative matter — something to which the doctrine of relativity applies, as it does to all the phenomena of Nature and the handiwork of man, and even to our conceptions of time and space.

Let us assume that business morals are moving toward this concept of absolute

equity. There is every reason to believe that they are. Nevertheless the movement is not uniform everywhere, either in its speed or its direction. The attitude of individuals, of economic groups, and even of whole nations, toward the standards of morality in business is never a stabilized attitude. There is nothing absolute about it. It is always in process of flux, with each economic unit changing its relationship to every other. In a word, it would seem that the Einstein philosophy may be used to illuminate this matter.

The doctrine of relativity asserts that there can be no such thing as absolute position, absolute movement, absolute space, or absolute time; it contends that

space and time are interdependent phenomena, not independent; and that everything in Nature is relative to something else. If this be true of the physical world, may it not also be true in its application to the imponderable things of life, including the morals of business? Einstein is said to have declared that no metaphysical implications are to be drawn from his doctrine of relativity, but we cannot be sure that he is right about this. It is our privilege, at any rate, to inquire carefully whether the central concept of the Einstein theory may not be applied in a very helpful sense to the interpretation of all of life's movements and trends.

The scientists tell us that there can

be no such thing as absolute movement. "The conception of movement only arises when there are two or more bodies changing their position relatively to each other. For example, suppose I wish to define my motion as I travel along in an automobile. I may be moving at the rate of twenty-five miles an hour in relation to objects fixed by the roadside, but relative to a fellow passenger I am not moving at all. In relation to the sun I am moving with a speed of eighteen and one-half miles per second in an elliptical orbit, and relative to the stars I am moving in the direction of the star Vega at a speed of twelve miles per second."

Assuming, therefore, that our motion

is along the road in a seemingly straight line, we must first of all remember that the earth is round, and hence that the road must be in reality a curved line. Moreover, the earth rotates on its own axis, thus adding circular motion to our own; and furthermore, it revolves around the sun, thus adding an elliptical motion. The earth, again, moves with the sun toward the constellation Hercules, but the seemingly straight line which it follows may well be a reflection of a revolutionary motion around the center of the system of the Milky Way. Finally, we are told that even this gigantic mass seems to be moving at a speed of several hundred miles per second with respect to the spiral nebulæ!

And so it comes to pass that instead of traveling in a straight line in our automobile, at a given rate of speed, we are in reality following a very curved and complicated path; going forward in relation to one unit of the universe and backward in relation to another; everything depending upon whether we measure our speed and direction by the fixed objects at the roadside, or by the earth, or the sun, or the various constellations. Nevertheless, and despite all this, the fact remains that, so far as the man riding in the motor car is concerned, the motion is forward, for all practical purposes, and in a given direction which will ultimately bring him to his destination.

Let us apply this analogy to the progress of business morals. I believe it to be demonstrable that the movement has been in one general direction for American business as a whole. We have been making progress toward the absolute concept embodied in the Golden Rule. The general course of the movement has been forward, but it has not been uniformly or steadily so. It has not been forward at all times and in all lines of business, nor has it proceeded at anything like a regular rate of speed. At times it has slipped back, but it is probably true that these retrogressions in the morals of business have not offset the preceding advances either in extent or in character. The progress is not meas-

urable by any single, absolute standard, although the public mind tries to gauge it in some such way. Morals and motion are alike relative.

It must be so, when you bear in mind the way in which business develops. Progress in business implies leadership; and business leadership in its turn demands certain abilities and qualities. One of these, a highly important one, is aggressiveness, without which there can be no leadership. But aggressiveness in business is not an unmixed virtue, for one of its handmaidens is ruthlessness. It may be set down as an axiom of modern business that the greater the size of the operation, commercial or industrial, the stronger will be the implication

of aggressiveness and hence the more probable will be some ruthless exercise of power. In other words, a forward movement toward greater effectiveness in any field of business, coming as it does through aggressiveness and sometimes ruthless leadership, inevitably brings about various alterations in the lives and attitudes not only of those directly connected with the operation, but of all who are in competitive relations and all who are directly or indirectly dependent thereon; so that the effects of any given step in business development may be felt at the periphery of a very wide circle. Every such step marks a transition, and transitions always compel readjustments, sometimes over an

unexpectedly wide range and with a good deal of hardship to the individuals affected.

Yet aggressiveness is essential in business and it is not possible for an aggressive leader to forecast and ponder over all the results that may follow the attempt to improve his own operations, so far as these may affect the welfare of people who are in the path of the forward movement or who are so situated in relation to it that they may be temporarily injured. Whenever a business leader or his business operations begin to stand out in size and power, the general public grows suspicious, even though it may be a considerable time before the public discovers any particular action upon

which to ground its suspicion. As a rule the suspicious attitude continues until a series of actions on the part of the aggressive operator or organization have produced a cumulative effect, when suddenly the public wrath boils up from all quarters at once. There is a general demand that all further progress along the same line shall be restrained by legislative action. There is a cry for restrictive laws or for an increase in the power of some regulating body. In virtually every case the resultant legislative intervention goes beyond the remedial needs of the situation; it is often unduly drastic and proves to be an actual detriment not only to the business operations against which it is directed, but in the

final analysis is detrimental to the public welfare also.

Such drastic action, when it comes, is always assumed to indicate an improvement in our definition of business morals. Most people regard it as setting new standards. Then comes a period in which the leaders of business and the general public undertake to mutually educate each other. They try to reach a meeting of minds to decide what courses of action in business are really in the public interest, even if superficially they do not seem to be so. For example, after the enactment of the Sherman anti-trust law in 1890, it took more than a score of years to convince the American public that not all combinations are harm-

ful, but that on the contrary many of them are greatly to the public advantage. For example, in the Transportation Act of 1921, there is specific authorization for some of the things that the Sherman Act prohibited. American business, unhappily, has for the most part striven to educate the public *after*, not *before*, the drastic legislative action is taken.

In this process of mutual education, the old leaders of the ruthless type must either modify their methods or pass off the stage. A new generation of business leaders comes into power with a more wholesome conception of their obligations to the worker, to their business competitors, and to the general public.

For the moment there is an era of good feeling all along the line.

But in the nature of things, that era cannot endure very long. Every generation in business feels itself impelled to new accomplishments and gradually the urge to a resumption of aggressive leadership is more strongly felt. With this resumption of aggressiveness, some of the old ruthlessness appears once more and the forward movement again excites public suspicion. Thus the cycle is run, in the broad lines of industrial and commercial development, and the level of business morality tends to adjust itself to the various stages in the process. It is not an absolute level, but is related to the time, the community, and to the par-

ticular branch of business that is concerned.

For our own purposes, we may take as a definition of honesty a composite of right intention and intelligence. Guiding by this definition, however, is not simple; it is like guiding by the North Star — which can be located only when other constellations are visible to point it out. With the complex machinery of modern business to deal with, many men of the best moral intention, through a lack of complete comprehension of the significance of modern business tools, find themselves violators of what might almost be called the primary rules of honesty. Often, men of equally sound intention, coupled even with an intelli-

gent knowledge of these perplexities, lack the mental alertness that enables them to escape the consequences of dishonesty in business associates. However sharp we make our own abstract standards of business morals, their practical application in business conduct does not assuredly follow.

We must also take into account the fact that business morals are affected by tradition, by racial traits, by the economic conditions of individual communities, by prevailing religious influences, and by various other factors. Even in the United States, where, in a certain sense, there is greater homogeneity than in other comparable areas, one can find the widest differences in business

morals if one takes the various lines of business in several large communities. There is also, of course, a wide and natural divergence in standards as between the large urban communities and the rural districts.

In a rural community, the gradations of business morality are plainly marked off. Honest men and sharpers are separated by a wide gulf in the small town; everybody knows with whom he is dealing and there are very few business men in the twilight zone. But in the large cities there is no such sharp demarcation. There we move by imperceptible stages from the high group of business idealists down into the ranks of reasonably honest men, thence through the

great masses of people who stand in the gray shades of business morality, until we strike rock bottom in the underworld of rascals. Business men in the great metropolitan centers are under relentless pressure from opportunism and expediency; at any rate, it is obvious that even those who have a high inherent sense of business morals often make compromises with conscience which are not made by the salt of the earth in rural communities. It is by reason of these compromises that the morals of one group in the large cities cannot be sharply marked off from those of another. In each case they shade into those of another. But the general tendency is up, not down. Taking the

movement as a whole, it roughly resembles the progress of democracy — slow, irregular, and never consistently along an established line.

Again, if we compare the business morals of different communities, we find them definitely influenced by tradition and by the religious affiliations of the dominating groups. Every large center has a code of business morals that differentiates it somewhat from every other center. But the greater ease of communication is steadily reducing these differences and in the United States during the past twenty years we have made noteworthy progress toward a consensus upon a fairly uniform code of business morals. It appears to be

demonstrable that in approaching this consensus we are moving toward a higher conception of correct business practice.

Thus far we have spoken of progress in business morals as a mass movement; but if we divide business into its varied branches — production, financing, transportation, and distribution — we will find that at any given time the advance toward better practice in each of these branches is different both in speed and in character from the progress which is being achieved in the others. At times, in one branch of business a definite forward movement can be observed, while in other fields a backward movement is just as plainly disclosed. Moreover, if

we subdivide the branches of business which have just been mentioned — for example, if we subdivide distribution into wholesaling, jobbing, and retailing — we find the variations continued; one subdivision makes an advance in business morals while another, although closely allied, is experiencing a retrogression. All along the line this process of acceleration or slackening is going on and it is doubtless true that the constant passing and re-passing engenders some friction, which tends to slow down all the movements both forward and back.

Because of this ebb-and-flow movement, this very gradual advance, day by day or year by year, changes are too subtle to denote what progress we may

be making. But if we look back a generation, we see a business world very different from that in which we work. Producers in practically all lines of business engaged in practices that would today be considered reprehensible, that might, indeed, not only bring a deluge of public disfavor and cessation of trade, but even incarceration, but which were then regarded as both customary and clever.

Caveat emptor — let the buyer beware — was a necessary maxim. In foodstuffs, adulteration, short weights, and untruthful definitions were very general. Most of the foodstuffs were sold in bulk; the seller's only responsibility was to make a large profit whenever he could. Good

will was rarely thought of. Wines, liquors, medicines were sold with no indication of the ingredients or quality of the merchandise. In the production of textile fabrics, every kind and method that could be devised for cheapening the product was used, with the result that shoddies were sold as woolens. Light textiles were filled with various combinations of materials that gave them temporary sheen and weight. Paper-soled shoes were sold as leather. In all the heavier products, such as iron and steel and lumber, there could be found grave misrepresentations as to standard, quality, and grade. And the buyer bought "as is."

Public utilities — so-called — followed

the monopolistic theory, "The public be damned." For some years after railroad building began, the treatment of the traveling public, from our present viewpoint, was hardly understandable, it was so bad. All kinds of discrimination, rebates, and unfair practices were in vogue in freight rates and freight hauls. Only too often, the officials of transportation companies were engaged in competitive production lines, and used their authority for the distribution of cars, movement of freight, rebates, and other discriminatory practices which were distinctly to their own advantage, and usually to their advantage alone. The methods of financing were equally reprehensible. The investment or com-

mercial banker, either one, thought little of his responsibility to the public. Cut-throat competition was the order of the day, and liberty of trade became license.

It is obvious, of course, that in the last thirty years, because of the general education of the public and its greater enlightenment, these off-color business practices which were readily tolerated at the close of the nineteenth century have now been abandoned altogether, or have been so modified in many lines that they are not observable today. The greatest advance during these years has been made in the branches of our economic life which come into closest contact with the public; but the influence

of this improvement has been also felt in lines of business which have no such close contact. Public utilities and quasi-public utilities now display a much greater solicitude for the rights and conveniences of the people than they did a generation ago. Today they aim not only to give better service at reasonable rates, but to humor the public in its special desires and idiosyncrasies. In the realm of finance, both commercial and investment bankers are expected to conduct themselves more and more as trustees; a higher code of business practice and a more exalted definition of their fiduciary relation to the public whom they serve is expected of all bankers. In the fields of production and distribution,

as every one knows, most of the cruder evil practices of a generation ago (such as adulteration, misbranding, and short-weight selling) have for the most part disappeared. In the marketing of goods, the general practice of thirty or forty years ago has been so greatly modified that the people of this country will no longer trade except on the basis of one price to all and a guaranty of both quantity and quality thrown in. This rule of one price and guaranteed quality now obtains in every line of marketing except the luxuries. There the improvement in business morals has been by no means so great or so observable as in the case of staple merchandise.

In addition to the various factors

which we have discussed, we should consider the very important matter of the obtaining of capital for use in enterprises of all kinds through the sale of shares. Until very recent times the obtaining of mass capital from many holders was limited to contributions through partnerships, and these partnerships imposed upon the individual partners grave responsibilities in the way of liability.

Then was developed the idea of undivided interests in enterprises through the issuance of shares of stock representing such undivided interests. Gradually the theory was evolved that the liability of the holder of such shares should be limited, and in general the shareholders

of the modern corporation now have a limited liability, such limit being fixed legislatively in differing degrees by the various states of the United States, as well as in other countries.

The need of mass capital by business enterprises has resulted in capital structures for corporations that give varying degrees of return. In other words, the corporation endeavors, through the different types of securities which it offers to the public, to meet the demand for varying returns and the differing desires of the public in respect of return as compared with safety. This statement applies particularly to the public and semi-public corporate enterprises. The more speculative enterprises frequently have

but one form of security, which is known as common stock.

The growth in the number and strength of corporations during the last fifty years has been extraordinary, and through that period, both by legislation and court decisions, by common consent and through the better understanding of the rights and duties, the powers and privileges of the management of a corporation, as distinguished from those of its stockholders, there has gradually grown up an improved philosophy, which, when compared with the practices of fifty years ago, is incomparably better. In the early history of corporations, when there was little restrictive legislation and when the whole practice

was new, the methods sometimes used by management and by individual members of management in the conduct of the affairs of corporations and in the management's relation to the shareholders were anything but ethical. Here again there has been a continuing improvement, both in the knowledge of the rights of shareholders, and in the responsibility of the management for the proper conduct of the affairs of the corporation.

In the so-called sound and wholesome productive and constructive enterprises, proper rules are now followed. An understanding of what constitutes proper rules is becoming more and more widely disseminated, and shareholders and man-

agement alike are continually more disposed to recognize these rules. While this is true, there is still in this field a type of operation through which attempts to exploit the public are made, and too often they prove successful. In most of the states of this country and in many European countries this has resulted in laws for the protection of investors. The laws passed by the various state legislatures, known as "Blue Sky" laws, generally lodge in some official the discretion to determine the soundness of any enterprise proposing to sell its shares to the public, and the likelihood of return. This discretion applies to all enterprises, but becomes more important in what are commonly known as speculative enterprises.

The rules governing this control are in course of development, and it will be some years before entirely correct methods for determining the problems involved can be established. So far there seems to be, in the minds of many who have studied the subject, a question whether the restrictive legislation has been really effective, and whether after all the fact that an enterprise has the approval of the particular authority designated to determine what shall be offered to the public hasn't the effect of an implied endorsement; and whether the public, believing in such endorsement, does not buy speculative shares that it might not otherwise buy.

The evidence, however, is that in

general the authority to determine the question of permission to sell shares is applied for the protection of the public and to its advantage. As the public and the authorities controlling share issues develop proper rules for determining the character of enterprises, the earning prospects, the relation of the various securities that it is proposed to issue, and the hazards for each type of security, the problem will gradually move toward solution. While progress is being made in the rules governing such matters a still more important thing, i.e., the development of a better understanding on the part of the investing public, will also be making progress. Whether this progress will be at the same rate as the develop-

ment of methods on the part of the state authorities, remains to be seen, but that it will run along in the same general direction is beyond question. The perfect solution, of course, will never be obtained, but here again, relatively, we will move toward the desired goal.

In general, then, we are making headway toward an improved and broadly accepted code of business morals which is the competitive outcome of many factors. It is being fashioned by the influence of competition in business, and by a recognition of the value of honesty as a policy; but it is inevitably forced to allow for differences in the economic conditions which obtain in different communities, and above all it

must reckon with the established traditions and take into account the religious affiliations of the dominating economic groups. So long as our large communities differ so greatly one from another, it will hardly be possible to obtain an absolutely standardized code of business morals, applied on a nation-wide scale. Business morals will doubtless continue to improve, but they will continue to be relative to time and place, and to the circumstances under which each branch of business is carried on at any given time.

So we come back to the analogy with which we started: the movement of our motor car which we assume to be proceeding at an absolute rate of speed in a

straight line, but which, according to the Einstein theory, is going neither fast nor straight. Nevertheless, the car is proceeding toward its destination, irrespective of what its relation to the movements of the earth, or the sun, or the spiral nebulæ, may be. In our business morals, all things are likewise relative, but we are just as truly moving toward a goal, which is that high concept of all human relations, the Golden Rule.

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